

REMARKS

Reconsideration of this application, as amended, is respectfully requested. The following remarks are responsive to the Office Action mailed March 9, 2006.

35 U.S.C. 102 Rejections

Claims 1-4, 7, 8, 16, 17, 24, 25 and 27-29 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,137,939 (hereafter "Henry"). Particularly, the Office Action alleges that Henry teaches each limitation of independent claims 1, 8, 16, and 24. Applicant has amended claims 1, 8, 16, and 24 to reflect that the first and second material exist ONLY outside of the waveguide

However, Figure 5a clearly shows the alleged "second material" 20 in Henry being within the waveguide, not in an optical mode surrounding the wave guide, as claimed in Applicant's independent claims. Furthermore, the text of Henry supports this:

"FIG. 5a shows a varying number of relatively small blocks 20 of elastomer material being placed in the selected waveguide path." (Col. 6, Ins. 22-25)

Because the second material 14 of Henry exists within the waveguide and not the optical mode surrounding the wave guide, as claimed by Applicant, Henry cannot be said to anticipate Applicant's independent claims.

Accordingly, Applicant respectfully submits that claims 1, 8, 16, and 24, as well as all dependent claims, are presently in condition for allowance.

35 U.S.C. 103 Rejections

Claims 5, 6, 2-15, 18-21 are rejected under 35 USC §103(a) as being unpatentable over Henry. However, in view of the above amendments and discussion pertaining to claims 1, 8, 16,

and 24, from which claims 5, 6, 2-15, 18-21 depend, Applicant respectfully submits that the rejection has been overcome.

Accordingly, it is respectfully asserted by Applicant that claims 5, 6, 2-15, 18-21 are in condition for allowance.

Claims 7, 9-11 and 26 are rejected under 35 USC 103(a) as being unpatentable over Henry in view of Deacon (U.S. patent 6,243,517). However, in view of the above amendments and discussion pertaining to claims 1, 8, 16, and 24, from which claims 7, 9-11 and 26 depend, Applicant respectfully submits that the rejection has been overcome.

Accordingly, it is respectfully asserted by Applicant that claims 7, 9-11 and 26 are in condition for allowance.

If there are additional fees due, please charge them to our Deposit Account No. 02-2666.

Respectfully submitted,

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